IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 15575 of 2003

Between:

P. Chandra Sekhar Reddy, S/o. P. Ram Reddy,
R/o. 5-7-205(225), S.D. Road, Manyam Chelka,
Nalgonda District

..... PETITIONER

AND

1 The Principal Secretary, R & B Dept., Govt. of A.P., Secretariat Buildings, Hyderabad
2 The District Collector, Nalgonda, Nalgonda District

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a writ or direction more particularly one in the nature of writ of mandamus declaring the action of the respondents in not paying to compensation to the petitioner herein for the land taken over by the respondents under the Road widening scheme.

Counsel for the Petitioner: MR.T.SRIKANTH REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR ROADS & BUILDINGS

The Court made the following :

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ORDER:

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The petitioner states that he has purchased a plot in an extent of 546 Square Yards vide registered sale deed dated 08.01.1965. It is stated that the petitioner has purchased another plot abutting the said plot to an extent of 280 Square Yards vide registered sale deed, dated 04.08.1965 and the total extent of both the plots is 826 Square Yards. Immediately thereafter the petitioner filed an application seeking permission for construction of the house and accordingly the Executive Committee of Nalgonda Municipality after receiving the necessary permission fee, plans verification fee, betterment charges, accorded sanction for construction of the house vide proceedings dated 10.03.1966 in No.872/N.M/1966. While so, in the absence of the petitioner, the authorities have demolished the front portion of the compound wall without any prior notice for the purpose of road widening.

It is the case of the petitioner that after the demolition of the compound wall an extent of 85.5 Square Yards was taken over by the authorities for the purpose of road widening programme and previously the Nalgonda House Owners Welfare Association field a W.P.No.18529 of 1997 in which this Court by order dated 14.10.1997 directed the District Judge, Nalgonda to appoint an Advocate-commissioner to ascertain the facts submitted by the said association as regards the demolition of the structures of the members of the said association. Accordingly, one Munagala Narayana Rao was appointed as Advocate-commissioner by the Principal District and Sessions Judge, Nalgonda and the said Commissioner has filed his report along with Annexures-I & II furnishing the extent of the land acquired or demolished. In Annexure-II, dated 28.12.1998 the name of the petitioner was mentioned at Sl.No.1 stating that the compound wall of the petitioner was demolished abutting Miryalaguda Road.

The W.P.No.18529 of 1997 was disposed of on 06.02.1998 directing the authorities that in case of demolition of the private property, the Mandal Revenue Officer or other authorities concerned shall determine the loss caused to the occupants on the basis of the assessment to be made by the Engineer of Roads and Buildings Department and on such assessment of damages, the Mandal Revenue

Officer or the concerned authority shall take appropriate steps to disburse the amount qualified by such owners on such demolition. If the land belongs to the Government, the question of demolition does not arise.

According to the petitioner, an extent of 85.05 Square Yards was taken over by the Government apart from demolishing the compound wall. The Mandal Revenue Officer, Nalgonda vide his letter No.B/22006/98; dated 16.01.2001 addressed a letter to the Executive Engineer(R & B) Division, Nalgonda stating that the petitioner has lost an extent of 86 Square Yards from out of his premises owned by him bearing No.5-7-205 (225), Miryalaguda Road, Nalgonda and as per the basic register, the value of the lands situated from Petrol Bunk to ITI, abutting to main road is Rs 2,000/- per square yard. The Executive Engineer (R & B) Division, Nalgonda also addressed a letter No.DB/D5/2001-2002/1473, dated 05.10.2001 to the District Collector, Nalgonda stating that apart from the value of the land taken over from the petitioner, the compound wall length of 37 meters belongs to the petitioner which was demolished worth Rs.21,275/- after giving effect to the depreciation.

It is stated that the petitioner made several representations for payment of compensation, but no action has been taken and therefore, the petitioner filed this present Writ Petition seeking a direction declaring the action of the respondents in not paying the compensation, as illegal and arbitrary.

A counter has been field on behalf of the respondents stating that the part of the House No.5-7-205 belonging to the petitioner fell within the alignment of the proposed 80 feet road covered in the master plan and therefore the compound wall of the petitioner should situate 40 feet away from the center of the road, but it is at the distance of 31'.6" from the center of the road and therefore the petitioner himself encroached the government land. It is further stated that the total extent of the land of the petitioner is only 826 Square Yards and the petitioner himself has encroached an extent of 86 Square Yards and raised the compound wall unauthorisedly and therefore he is not entitled for any compensation.

To resolve the controversy, this Court by order dated 23.06.2004 appointed Sri T.S.N.Sudhakar, Advocate as Advocate-commissioner to inspect the premises of the petitioner covered by House bearing No.5-7-205 situated at S.D.Road, Manyam Chelka, Nalgonda Town and measure the plot area in the premises bearing M.C.No.5-7-205 of Nalgonda town, which is presently in occupation of the petitioner,

after excluding the area effected in road widening. In pursuance of the said order of this Court, the Advocate-commissioner issued notices to both the parties and inspected the said plot in the presence of counsel for both the parties on which day the Mandal Revenue Officer, Nalgonda, Muncipal Commissioner, Nalgonda and Deputy Executive Engineer (R &B), Nalgonda were also present. In the presence of the said officials and with the help of the surveyor, the Advocate-commissioner took the measurements of the plot belong to the petitioner and found that the total extent of the land in possession of the petitioner was found only 769.09 square yards. But, as per the sale deeds, the land of the petitioner should be 826 Square Yards. The entire extent of the house is covered by compound wall and the building of the petitioner is constructed on the plots purchased by him. It is stated that the road side facing of the house is 113.2 Square feet. In the letter of the Executive Engineer (R &B) Division, Nalgonda, it is stated that the length of the said front side portion of the house abutting the road i.e. the length of the compound wall was 37 meters. The land affected in the widening of the road is 56.01 Square Yards, which can be rounded up to 56 Square Yards.

Thus, there is no dispute that the length of the compound wall of the petitioner abutting the main road is 37 meters and it was demolished and an extent of 56 Square Yards was taken over by the authorities. Therefore the petitioner is entitled for compensation at the rate of Rs.2,000/- per Square Yard, apart from compensation for the compound wall costing Rs.21,275/-.

As there are no disputes with regard to the Advocate-Commissioner report to which no objections have been filed by the respondents, I am of the opinion that the extent of 56 Square Yards of the land of the petitioner was taken over by the authorities in connection with widening of the road by illegally demolishing the compound wall. The contention of the respondents that no permission was obtained for the compound wall cannot be accepted as admittedly, Nalgonda Municipality granted the permission for construction of the house and plans were verified and therefore it cannot be said that the house was constructed without any compound wall.

Therefore, the respondents are directed to pay compensation to the petitioner at the rate of Rs.2,000/-per square yard for 56 Square Yards i.e. Rs.1,12,000/- besides paying compensation amount of Rs.21,275/- for demolishing the compound wall, totalling Rs.1,33,275/- within eight weeks, from the date of receipt of a copy of

this order.

The Writ Petition is accordingly allowed. No costs.

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V.ESWARAIAH, J

Dated: 04-04-2005

CCM

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Bilal Nazki, the Acting Chief Justice on this Monday, the Fourth day of April, Two thousand and Five.

ASSISTANT REGISTRAR

To

1 The Principal Secretary, R & B Dept., Govt. of A.P., Secretariat Buildings, Hyderabad
2 The District Collector, Nalgonda, Nalgonda District

3 Two CCs to the G.P. for Roads and Buildings, High Court of A.P., Hyderabad(OUT)

4 Two CD copies.